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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,263	11/10/2003	Michael K. Brann	100041-41178	3204
27805	7590	03/20/2006	EXAMINER	
THOMPSON HINE L.L.P.			GATES, ERIC ANDREW	
P.O. BOX 8801			ART UNIT	
DAYTON, OH 45401-8801			PAPER NUMBER	
			3722	
DATE MAILED: 03/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/705,263	<b>Applicant(s)</b> BRANN, MICHAEL K.	
	<b>Examiner</b> Eric A. Gates	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/21/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 18 recites the limitation "said when said front cover" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5-11, 15-18, 21-29, 31-33, 35-36, and 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Morehouse (U.S. Patent 1,918,773).
5. Regarding claim 1, Morehouse discloses a binder comprising: a spine 12 having a first edge 20 and a second edge 21; a front cover 18 pivotally coupled to said first edge of said spine; a rear cover 19 pivotally coupled to said second edge of said spine, wherein said front cover is directly or indirectly attachable to said rear cover to form a self-supporting binder (see figures 2-3); and a binding mechanism 38 coupled to said

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spine, wherein said binding mechanism is coupled to said spine in an off-center manner such that said binding mechanism is located closer to one of said edges than the other one of said edges (see figure 5).

6. Regarding claim 2, Morehouse discloses wherein said spine 12 and said covers 18/19 are generally flat, planar components and are generally rectangular in front view.

7. Regarding claim 3, Morehouse discloses wherein said first and second edges 20/21 are located on opposite sides of said spine 12.

8. Regarding claim 5, Morehouse discloses wherein said binder is movable between a closed position, wherein said front and rear covers 18/19 are generally parallel and facing each other and said binding mechanism 38 is generally located between said front and rear covers (see figure 4), and a display position wherein said front cover 18 is directly or indirectly attached to said rear cover 19 to form a self-supporting binder and said binding mechanism 38 is not generally located between said front and rear covers (see figures 2-3).

9. Regarding claim 6, Morehouse discloses wherein said binder has a generally closed generally triangular shape in end view when said binder is in said display position (see figures 2-3).

10. Regarding claim 7, Morehouse discloses closure means 27/29 located on said front and rear covers 18/19 for retaining said binder in said closed position.

11. Regarding claim 8, Morehouse discloses wherein said rear cover 19 includes an extension flap 23/26 that is attached to said front cover 18 when said front cover is directly or indirectly attached to said rear cover 19.

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12. Regarding claim 9, Morehouse discloses wherein said extension flap 23/26 is pivotally coupled to a main portion of said rear cover (by outer edge 22).

13. Regarding claim 10, Morehouse discloses attachment means 28/27 located on said extension flap 23/26 and on said front cover 18, wherein said attachment means can be operated to couple said extension flap to said front cover (see figure 3).

14. Regarding claim 11, Morehouse discloses wherein said part of said attachment means 27 located on said front cover 18 is located on an inner surface of said front cover.

15. Regarding claim 15, Morehouse discloses wherein said spine 12 is a generally longitudinal panel and has a lateral width, and wherein said binding mechanism 38 is not centered along said lateral width (see figure 5).

16. Regarding claim 16, Morehouse discloses wherein said spine 12 includes a longitudinal centerline and said binding mechanism 38 includes a longitudinal centerline which is generally not aligned with said longitudinal centerline of said spine (see figure 5).

17. Regarding claim 17, Morehouse discloses wherein said binding mechanism 38 is located generally adjacent to said one of said edges 21 such that a display sheet 33 bound in said binding mechanism lies generally flat and parallel with said rear cover 19 when said binder is in a display position wherein said front cover is directly or indirectly attached to said rear cover to form a self-supporting binder (see figure 3).

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18. Regarding claim 18, Morehouse discloses wherein said front cover 18 is directly or indirectly attached to said rear cover 19 to form a self-supporting binder wherein said binding mechanism 38 extends generally horizontally (see figure 6).

19. Regarding claim 21, Morehouse discloses a plurality of sheets 33 bound by said binding mechanism 38.

20. Regarding claim 22, Morehouse discloses wherein said binder is movable to a closed position, wherein said front and rear covers 18/19 are generally parallel and facing each other and said binding mechanism 38 is generally located between said front and rear covers (see figure 4), and wherein said binder includes closure means 27/29 for retaining said binder in said closed position.

21. Regarding claim 23, Morehouse discloses wherein each cover 18/19 includes an inner edge and an outer edge, each inner edge being coupled to said spine 12 and said outer edge being located generally opposite the associated inner edge, and wherein said closure means are located generally adjacent to said outer edges (see figure 3).

22. Regarding claim 24, Morehouse discloses a binder comprising: a spine 12 having a longitudinal centerline; a front cover 18 pivotally coupled to said spine; a rear cover 19 pivotally coupled to said spine, wherein said front cover is directly or indirectly attachable to said rear cover to form a self-supporting binder (see figure 3); and a binding mechanism 38 coupled to said spine and having a longitudinal centerline, wherein said binding mechanism is coupled to said spine in an off-center manner such that said longitudinal centerline of said binding mechanism is generally not aligned with said longitudinal centerline of said spine (see figure 5).

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23. Regarding claim 25, Morehouse discloses a method for manipulating a binder comprising: providing a binder having a spine 12 having a first edge 20 and a second edge 21, a front cover 18 pivotally coupled to said first edge of said spine, a rear cover 19 pivotally coupled to said second edge of said spine, and a binding mechanism 38 coupled to said spine, wherein said binding mechanism is coupled to said spine in an off-center manner such that said binding mechanism is located closer to one of said edges (see figure 5); and directly or indirectly attaching said front cover to said rear cover to form a self-supporting binder (see figure 3).

24. Regarding claim 26, Morehouse discloses wherein said attaching step includes moving said binder from a closed position, wherein said front and rear covers 18/19 are generally parallel and facing each other and said binding mechanism 38 is generally located between said front and rear covers (see figure 4), to a display position wherein said front cover is directly or indirectly attached to said rear cover to form a self-supporting binder and said binding mechanism is not generally located between said front and rear covers (see figure 3).

25. Regarding claim 27, Morehouse discloses wherein said binder has a generally closed generally triangular shape in end view when said binder is in said display position (see figure 3).

26. Regarding claim 28, Morehouse discloses wherein said binding mechanism 38 extends generally horizontally when said binder is in said display position (see figure 6).

27. Regarding claim 29, Morehouse discloses wherein said spine 12 includes a longitudinal centerline and said binding mechanism 38 includes a longitudinal centerline

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which is generally not aligned with said longitudinal centerline of said spine (see figure 5).

28. Regarding claims 32, 35, and 38, Morehouse discloses wherein at least one of said front or rear cover 18/19 includes attachment means 27/28 that can be operated to couple front and rear covers to form said self-supporting binder.

29. Regarding claims 33, 36, and 39, Morehouse discloses wherein said attachment means 27/28 is located on both said front and rear covers 18/19.

***Claim Rejections - 35 USC § 103***

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morehouse.

32. Regarding claim 30, Morehouse discloses the steps of binding a plurality of pages 33 together by said binding mechanism 38, and displaying said pages such that said pages lie against said rear cover 19 in a generally flat manner substantially without any creases in said pages caused by lying over a junction of said spine 12 and one of said covers. Morehouse does not disclose displaying said pages such that said pages lie against said front cover in a generally flat manner substantially without any creases in said pages caused by lying over a junction of said spine 12 and one of said covers.



However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to arranged the binder so that the pages lie against the front cover without any creases instead of the rear cover for the purpose of design choice, since it has been held that rearranging parts of an invention involves only routine skill in the art.

33. Claims 4 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morehouse in view of Wyant (U.S. Patent 5,375,883).

34. Regarding claim 4, Morehouse discloses the invention substantially as claimed, except Morehouse does not disclose wherein said binding mechanism is a three ring binding mechanism.

35. Wyant teaches the use of a binding mechanism comprising a three ring binder 50 for the purpose of binding standard notebook paper. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Morehouse with the three ring binding mechanism of Wyant in order to hold standard notebook paper.

36. Regarding claim 12, Morehouse discloses the invention substantially as claimed, except Morehouse does not disclose wherein said extension flap is releasably attachable to an inner surface of said rear cover.

37. Wyant teaches the use of an extension flap 42 that is releasably attachable to an inner surface 36 of a rear cover 34 for the purpose of releasably covering a pocket 12 on the rear cover. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Morehouse

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with the extension flap and pocket of Wyant in order to retainably hold an object such as a calculator.

38. Regarding claims 13 and 14, the modified invention of Morehouse discloses the invention substantially as claimed.

39. Claims 30, 34, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morehouse in view of Ericson (U.S. Patent 2,613,956).

40. Regarding claims 30, 34, and 37, Morehouse discloses the invention substantially as claimed, except Morehouse does not disclose wherein said binding mechanism is fixedly and non-rotatably coupled to said spine.

41. Ericson teaches the use of a binding mechanism 11 that is fixedly and non-rotatably coupled to a spine 3 for the purpose of providing a reinforced cover to spine attachment. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Morehouse with the binding mechanism of Ericson in order to have a binder with a more stable cover.

42. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morehouse in view of Moore (U.S. Patent 940,345).

43. Regarding claim 19, Morehouse discloses the invention substantially as claimed, except Morehouse does not disclose wherein one of said front or rear covers includes a plurality of openings to receive the outer edge of said binding mechanism therethrough.

44. Moore teaches the use of a plurality of openings 24 that are used for the purpose of allowing binding mechanisms 15 to extend therethrough so that the cover can close more completely. Therefore it would have been obvious to one having ordinary skill in

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the art at the time the invention was made to have combined the binder of Morehouse with the openings of Moore in order to have a binder with a cover that confines the bound sheets of paper more tightly.

45. Regarding claim 20, the modified invention Morehouse discloses the invention substantially as claimed, except Morehouse does not disclose wherein each of said openings has a grommet extending around its perimeter.

46. Moore teaches the use of grommets 25 for the purpose of reinforcing the openings 24. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Morehouse with the grommets of Moore in order to protect the binding mechanism openings.

### ***Conclusion***

47. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

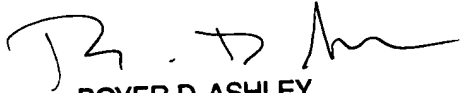
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG  
16 March 2006



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